I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: March 19, 2009
Electronic Signature for Francene A. Sawyer: /Francene A. Sawyer/

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANTS:	Matthias Gerlach *et al.*	**GROUP ART UNIT:**	1624
SERIAL NO.:	10/608,520	**CONFIRMATION NO.:**	8727
FILING DATE:	June 27, 2003	**EXAMINER:**	Paul V. Ward
TITLE:	Aryl-and Heteroarylcarbonylpiperazines and Their Use for the Treatment of Benign and Malignant Oncoses		

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Sir /Madam:

This submission is made in response to a Notice of Non-Compliant Appeal Brief, mailed January 29, 2009, in the above-identified application. The Notification sets a reply deadline of one-month or thirty days from the mailing date of the Notification, which may be extended pursuant to 37 C.F.R. 1. 136. A one (1) month petition for extension of time under 37 C.F.R. 1. 136(a) is included herewith, thus, this Response is timely filed. This response rectifies as follows:

(i) the noted problem of not identifying the appealed claims in the Status of Claims section of the Appeal Brief; and

(ii) the noted problem regarding inclusion of a concise explanation of the subject matter of independent Claim 1.

Status of Claims begins on page 2 of this paper.

Summary of Claimed Subject Matter also begins on page 2 of this paper.

STATUS OF CLAIMS

The application as filed contained twenty (20) claims. During prosecution, in response to a Restriction Requirement mailed February 23, 2007, Appellants elected Group IIf in a Response filed March 12, 2007. The Examiner withdrew claims 12,13 and 17-19 from consideration in a non-Final Office Action mailed June 18, 2007. The claims currently on Appeal are Claims 1-11, 14-16 and 20.

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates to a class of pyrazole-substituted carbonylpiperazines,[1] pharmaceutical compositions for use in the treatment of tumors in humans and in mammals[2] including the class of pyrazole-substituted carbonylpiperazines, pharmaceutical compositions including the class of pyrazole-substituted carbonylpiperazines,[3] and processes for the production of the pharmaceutical compositions.[4] The claimed pyrazole-substituted carbonylpiperazines include a pyrazole ring which can be substituted with heteroaryl, phenyl, and anthracenyl groups.[5]

With reference to independent Claim 1, the recited subject matter relates to an aryl- or heteroaryl-substituted piperazinylcarbonyl compound of the general formula (1),

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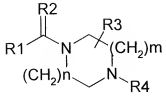
1 See Specification, page 3, lines 8 to 26.
2 *See* Specification, page 12, lines 11 to 14.
3 See Specification, page 13, lines 7 to 10.
4 See Specification, page 11, line 1 to page 12, line 9 and page 13, lines 7 to 10.
5 See Specification, page 5, lines 6 to 24.



1

wherein:

R_1: 1H-pyrazole,

where the bonding can take place via any desired and possible ring member of the heteroaryl or aryl radical and the aromatics and heteroaromatics can be mono- or polysubstituted or unsubstituted, wherein the aryl radical is selected from the group consisting of phenyls and anthracenyls;[6]

R_2: O, S;

R_3: represents one or up to 16 substituents selected from the group: H, unsubstituted or substituted alkyl, halogen, COOH, $CONH_2$, where the substituents can be arranged vicinally or geminally on the heterocycle;

R_4: unsubstituted or substituted aryl, unsubstituted or substituted heteroaryl, unsubstituted or substituted alkylaryl, unsubstituted or substituted alkylheteroaryl, wherein the heteroaryl radical can be pyrrolyl, furyl, thienyl, thiazolyl, triazolyl, tetrazolyl, oxazolyl, isothiazolyl, isoxazolyl, pyrazolyl, imidazolyl, pyridinyl, pyrimidinyl, pyrazinyl, triazinyl, benzothiazolyl, indolyl, indolizinyl, quinolinyl, isoquinolinyl, cinnolinyl, quinoxalinyl, phthalazinyl, carbazolyl, phenazinyl, phenothiazinyl, purinyl, acridinyl, phenanthrinyl;[7]

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6 See Specification, page 3, line 8 to page 4, line 7 and page 5, lines 6 to 7.
7 See Specification, page 5, lines 11 to 24.

m: 0-3; and

n: 1;

or a physiologically salt, or hydrate thereof.[8]

[8] See Specification, page 9, lines 13 and 20.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment to Goodwin Procter LLP Deposit Account No. 06-0923.

Dated: March 19, 2009

Respectfully submitted,

Electronic signature: /Livia D. Boyadjian/
Livia D. Boyadjian
Registration No.: 34,781
GOODWIN PROCTER LLP
The New York Times Building
620 Eighth Avenue
New York, New York 10018
Tel. (212) 813-8800
Fax: (212) 355-3333
Attorney for Applicant